

ORDINANCE 10-13

AN ORDINANCE PROHIBITING THE USE OF OUTDOOR WOODBURNING FURNACES

ARTICLE I.

Purpose.

It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor woodburning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this ordinance, it is the intention of the Borough Council of the Borough of Mercersburg, Franklin County, Pennsylvania to establish and impose restrictions upon the construction and operation of outdoor woodburning furnaces within the limits of the Borough for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Borough and its inhabitants.

ARTICLE II.

Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON—One or more natural persons, a partnership, a Corporation, a joint venture, a trust, or any other entity having any ownership or leasehold interest in real estate, and any employee, officer, or agent of any of the aforesaid engaged directing or authorizing construction of any building; any removal of any building; any interior building improvement; and/or any exterior building improvements.

OUTDOOR WOODBURNING FURNACE -- A wood fired boiler, stove or furnace that is not located within a building inhabited by human or animal used for the purpose of heating the principal structure or accessory building or other structure on the premises.

VIOLATOR—Any person who owns or occupies the property at the time the outdoor woodburning furnace has been installed and/or occupies the property at the time the outdoor woodburning furnace has been installed and/or operated and who violates any provision of this ordinance..

ARTICLE III.

Construction and operation prohibited.

The construction and operation of outdoor woodburning furnaces are hereby prohibited within the Borough of Mercersburg.

After the effective date of this ordinance no person shall install, use, or maintain an Outdoor Woodburning Furnace within the Borough of Mercersburg except as provided for in the following section.

ARTICLE IV.

Nonconforming uses.

A. The lawful use of any outdoor woodburning furnace existing and is fully operational at the time of the adoption of this article may be continued, although such use does not conform with the provisions of this ordinance.

B. No outdoor woodburning furnace existing at the time of the adoption of this article shall thereafter be extended or enlarged.

C. Any existing outdoor woodburning furnace which is abandoned or discontinued for a period of nine consecutive months shall not be permitted to be reestablished as a nonconforming use, and must be immediately removed by the property owner from the subject premises within 30 days.. An Outdoor Woodburning Furnace is considered abandoned if it has not been fired for a period in excess of 9 months.

(1) If the property owner fails to remove the outdoor woodburning furnace within 30 days, the Manager of the Borough of Mercersburg shall deliver written notice by certified mail to the owner of the property upon which the outdoor woodburning furnace is located. Such notice shall provide that said owner shall remove the outdoor woodburning furnace within 15 days of the date the notice is delivered.

(2) Should the outdoor woodburning furnace not be removed within the time specified, the Manager of the Borough of Mercersburg shall take any necessary steps to effect its removal.

(3) The costs incurred by the Borough to effect said removal (including any attorneys fees incurred by the Borough to effect the removal), plus the costs of removal, shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then the Borough shall put a lien upon the property until payment is made.

INSERT PROVISION FROM SIDEWALK ORDINANCE

D. No existing outdoor woodburning furnace which has been damaged by any reason to the extent of more than 75% of its assessed value shall be repaired or rebuilt.

ARTICLE V.

Penalties for offenses.

A. Any person, firm, corporation, or other entity who violates any of the provisions of this Ordinance, or who violates any lawful order of the Manager of the Borough of Mercersburg, is responsible for a municipal civil infraction as defined in the Mercersburg Borough Fee Schedule, plus all direct and indirect expenses incurred by the Borough in prosecuting said violation, including actual attorney fees. A violator of this Ordinance shall also be subject to such additional sanction and as are authorized under Pennsylvania law. Each day continued violation of this Ordinance shall constitute a separate and distinct offense.

B. Compliance with this article may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this article shall also be subject to a civil penalty of not more than \$500, to be recovered by the Borough in a civil action. Each week's continued violation shall be, for this purpose, a separate and distinct violation.

C. In the event the Borough is required to take legal action to enforce this article, the violator will be responsible for any and all necessary costs incurred by the Borough relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged as a lien against the property.

ARTICLE VI.

Authority; enforcement.

A. The Manager of the Borough of Mercersburg, Zoning Officer or any other person who may hereafter be designated by the Mercersburg Borough Council, is hereby authorized to undertake in accordance with this ordinance any proceedings necessary or appropriate to enforce compliance with this ordinance.

ARTICLE VII.

REPEALER.

All provisions of previous Ordinances of the Borough of Mercersburg which are contrary to this Ordinance are expressly repealed.

ARTICLE VIII.

SEVERABILITY.

If any sentence, clause, paragraph, section or portion of this chapter is declared by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such declaration shall not affect the remaining provisions of this ordinance.

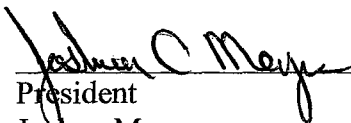
ARTICLE IIX

EFFECTIVE DATE

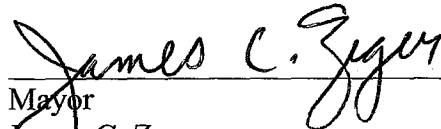
This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this 8th day of October
2007

Borough Council of the Borough of Mercersburg, Franklin County, Pennsylvania

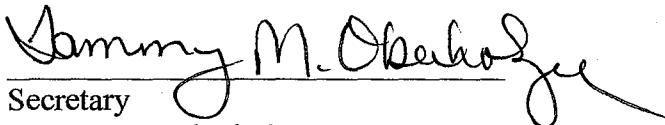


President
Joshua Meyers



Mayor
James C. Zeger

ATTEST:



Secretary
Tammy M. Oberholzer